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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,144	02/14/2002	Doreen S. Rao	BSC-201 (1002/276)	6889
22852	7590	06/20/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER MCEVOY, THOMAS M				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
06/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/075,144

Applicant(s)

RAO ET AL.

Examiner

THOMAS MCEVOY

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 15, 17-20, 22-34, 36-42, 45-54 and 56-64 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 7, 10-12, 15, 18-20 and 23-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8, 9, 14, 22, 28-34, 36-42, 45-54 and 56-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of claims 17 and 60 is withdrawn in view of the newly discovered reference(s) to Dorsey and Gardner. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

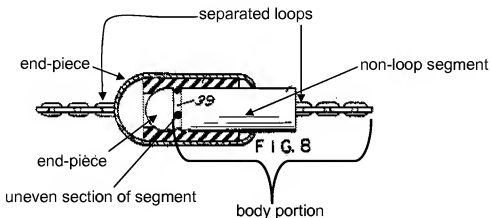
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 8, 9, 14, 22, 28-34, 36-42, 45-54, 56-59 and 61-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorsey (US 4,543,695).

Regarding claims 1-3, 6, 8, 9, 14, 22, 32-34, 36-42, 48-50, 52-54 and 56-59, Dorsey discloses a device for treating a body canal, comprising: a proximal end-piece, 10 or 25, positioned at a proximal-most end of said device; a distal end-piece, 10 or 25, positioned at a distal end of said device, the end-pieces having substantially the same non-looped, substantially spherical shape (half-sphere blunt ends); and an elongated body portion disposed between said proximal end-piece and said distal end-piece, said body portion comprising a plurality of discrete, circular, closed, interconnected loops configured to fit within said body canal, each of said loops comprising a member defining at least one opening, the member of each loop passing through at least one opening of another loop to form said plurality of interconnected loops, and wherein the elongated body portion further comprises a substantially cylindrical non-loop segment connected to at least one of said interconnected loops, a diameter of at least one of the end pieces being larger than a diameter of a remainder of the device. The body portion

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comprises a chain which has an axial length that is movable in the X, Y or Z planes. The non-loop segment separates multiple loops when the device is connected. See below (Figure 8):



Regarding claims 28 and 29, either end-piece is configured to hold the device in a blood vessel, for instance, a vessel with a diameter which is slightly smaller than the end-piece. Regarding claims 30 and 31, a loop can be joined directly to the end piece or indirectly via the non-loop segment by soldering (col. 2, lines 53-55). Regarding claim 51, the segment can be tubular (col. 2, line 57). Regarding claims 45-47 and 61-64, any solid under enough stress is compressible.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 17 and 60 rejected under 35 U.S.C. 103(a) as being unpatentable over

Dorsey (US 4,543,695) in view of Gardner (US 2001/0044254).

Regarding claims 17 and 60, Dorsey discloses the device as described above but fails to disclose that the loops are made of biocompatible material. Gardner teaches that it is known in the art to construct necklaces out of edible material (paragraph 0007). It would be obvious to one of ordinary skill in the art to have combined the clutch assembly of Dorsey with an edible necklace in order to serve as a clutch mechanism for the necklace.

### ***Response to Arguments***

6. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Mcevoy whose telephone number is (571) 270-5034. The examiner can normally be reached on M-F, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TM

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731